

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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The Minutes

February 21, 2005

There were no minutes for this date.

February 22, 2005

MISC. ORDER 2005-002

By The Court:

Associate Justice Coleman A. Blease is appointed to serve as Acting Presiding Justice to discharge the duties described in the California Rules of Court, rules 75, 76, 77, and 78, during the absence of the Presiding Justice from the court on February 28, 2005, through March 22, 2005, or until his return. (See Cal. Const. Art 6, Sec. 3.) The senior member of a panel of the Court is designated the Acting Presiding Justice of that panel during the absence of the Presiding Justice.

SCOTLAND, P.J.

At 9:33 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Raye, Associate Justice; Robie, Associate Justice; Butz, Associate Justice; and Guzman, bailiff.

C044849 THE PEOPLE v. NIX

Cause called. Ruth McVeigh, court appointed counsel, argued for appellant. Jesse Witt, Deputy Attorney General, argued for respondent. Cause submitted.

At 9:59 a.m., the court recessed until 9:30 a.m., Monday, March 21, 2005.

**C044225 THE PEOPLE v. TAMBLE
C045387**

(Not for Publication)

The oral imposition of a \$200 restitution fine for the misdemeanor conviction of violating Vehicle Code section 31 is stricken. The formal order granting probation filed February 26, 2003, is modified to delete the reference to a \$100 fine. With these modifications, the judgment (order granting probation), and the order finding Tamble in willful violation of probation, are affirmed.

BUTZ, J.

We Concur: Blease, Acting P.J.
 Hull, J.

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The Minutes

February 22, 2005, continued

- C045809 THE PEOPLE v. BENETIZ (Not for Publication)**
The judgment is affirmed.
HULL, J.
I concur: Raye, J.
I concur in the opinion and in the judgment, except as to part III of the
Discussion, as to which I concur in the result.
Blease, Acting P.J.
- C045239 WENTLAND et al. v. WASS et al. (CERTIFIED FOR PUBLICATION)**
The judgment is reversed. Wentland shall recover costs on appeal.
MORRISON, J.
We Concur: Scotland, P.J.
Sims, J.
- C045255 GAGE v. GAGE (Not for Publication)**
The trial court's orders denying father's motion to set aside the default
judgment and denying father's requests to modify custody, visitation and support
orders are all affirmed. Respondent Michele L. Gage shall recover her costs on
appeal. (Rule 27(a).)
BUTZ, J.
We Concur: Sims, Acting P.J.
Hull, J.
- C045373 UNNAMED PHYSICIAN v. ENLOE MEDICAL (Not for Publication)**
The judgment is affirmed, with directions to the trial court to determine
the amount of attorney fees to be awarded to Enloe for legal services rendered
on this appeal.
Blease, Acting P.J.
We Concur: Sims, J.
Raye, J.
- C046644 MAXWELL v. FLEHARTY et al. (Not for Publication)**
The judgment and order appealed from are affirmed. Defendants shall
recover their costs on appeal. (Cal. Rules of Court, rule 27(a).)
BUTZ, J.
We Concur: Davis, Acting P.J.
Robie, J.

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The Minutes

February 22, 2005, continued

C047103 TAYLOR v. SHARMA et al. (Not for Publication)
The judgment is affirmed.
CANTIL-SAKAUYE, J.
We Concur: Morrison, Acting P.J.
Hull, J.

February 23, 2005

C045100 THE PEOPLE v. POWERS (Not for Publication)
The judgment is affirmed.
SIMS, Acting P.J.
We Concur: Hull, J.
Butz, J.

C045508 THE PEOPLE v. DEPUE (Not for Publication)
The judgment is affirmed.
HULL, J.
We Concur: Raye, Acting P.J.
Morrison, J.

C045940 THE PEOPLE v. MANNING (Not for Publication)
The judgment is affirmed.
SCOTLAND, P.J.
We Concur: Morrison, J.
Butz, J.

C046464 THE PEOPLE v. AUGUSTINE (Not for Publication)
The judgment is affirmed.
SIMS, Acting P.J.
We Concur: Hull, J.
Butz, J.

C045937 WANG v. DAVI (Not for Publication)
The judgment of the trial court is reversed. The matter is remanded for further proceedings on the propriety of the discipline imposed by the DRE. The DRE shall recover its costs on appeal. (Cal. Rules of Court, rule 27(a) (2).)
ROBIE, J.
We Concur: Scotland, P.J.
Morrison, J.

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February 23, 2005

C046495 M.V. JR. v. T.M. and S.V. et al. (Not for Publication)
The order is reversed and the matter is remanded to the trial court for further proceedings consistent with this opinion. The parties shall bear their own costs on appeal. (Cal Rules of Court, rule 27(a).)

Scotland, P.J.

We Concur: Nicholson, J.
Raye, J.

C046781 ABEL v. ABEL, SR. (Not for Publication)

The judgment is affirmed.

BUTZ, J.

We Concur: Blease, Acting P.J.
Davis, J.

C046871 TITUS et al. v. THOMAS et al. (Certified for Partial Publication)

The judgment is reversed, and the matter is remanded to the trial court for further proceedings consistent with this opinion. Defendant shall reimburse plaintiffs for their costs on appeal. (Cal. Rules of Court, rule 27(a).)

SCOTLAND, P.J.

We Concur: Morrison, J.
Robie, J.

C047312 QUATTLEBAUM v. TINCHER (Not for Publication)

We modify the May 2004 order... The order is affirmed in all other respects. Each party shall bear their own costs on appeal. (Cal. Rules of Court, rule 27 (a).)

CANTIL-SAKAUYE, J.

We Concur: Blease, Acting P.J.
Nicholson, J.

C048530 WIMBERLY v. BARRON'S EDUCATIONAL SERIES, INC. et al.

BY THE COURT:

Appellant's petition for rehearing is denied.

MORRISON, Acting P.J.

February 24, 2005

C043218 THE PEOPLE v. JALADIAN (Not for Publication)

The judgment is affirmed...

BUTZ, J.

We Concur: Blease, Acting P.J.
Morrison, J.

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February 24, 2005, continued

- C043394 THE PEOPLE v. JIMENEZ (Not for Publication)**
The judgment is affirmed.
ROBIE, J.
We Concur: Nicholson, Acting P.J.
Butz, J.
- C045259 THE PEOPLE v. YOUNGBLOOD (Not for Publication)**
The conviction on count 2 (grand theft) is reversed. The trial court is directed to amend the abstract of judgment accordingly, and to forward a certified copy of the amended abstract to the Department of Corrections.
HULL, J.
We Concur: Raye, Acting P.J.
Morrison, J.
- C045509 THE PEOPLE v. MURRAY (Not for Publication)**
The judgment is affirmed.
NICHOLSON, J.
We Concur: Scotland, P.J.
Raye, J.
- C046463 THE PEOPLE v. HAYNIE (Not for Publication)**
The judgment is affirmed.
SIMS, Acting P.J.
We Concur: Hull, J.
Robie, J.
- C046509 THE PEOPLE v. SAMPLE (Not for Publication)**
The trial court's order requiring defendant to pay \$2,848 in restitution is vacated. The matter is remanded to the trial court with directions to conduct a restitution hearing.
BLEASE, Acting P.J.
We Concur: Morrison, J.
Hull, J.
- C047359 THE PEOPLE v. REID (Not for Publication)**
The judgment is affirmed.
RAYE, Acting P.J.
We Concur: Robie, J.
Cantil-Sakauye, J.

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February 24, 2005, continued

- C047822 THE PEOPLE v. TWIFORD (Not for Publication)**
The judgment is affirmed.
SIMS, Acting P.J.
We Concur: Butz, J.
Cantil-Sakauye, J.
- C045720 ALLIED FIRE PROTECTION v. DIEDE CONSTRUCTION, INC. et al. (CERTIFIED FOR PUBLICATION)**
The judgment is reversed. Allied shall recover costs on appeal.
MORRISON, J.
We Concur: Nicholson, Acting P.J.
Raye, J.
- C046523 TOOR v. WHEATLAND ELEMENTARY SCHOOL DISTRICT (Not for Publication)**
The judgment is affirmed. The District is awarded its costs on appeal.
(Cal. Rules of Court, rule 27(a) (2).)
HULL, J.
We Concur: Scotland, P.J.
Butz, J.
- C046010 In re JERMAINE B.; THE PEOPLE v. JERMAINE B. (Not for Publication)**
The judgment is affirmed.
BLEASE, Acting P.J.
We Concur: Morrison, J.
Hull, J.
- C043044 THE PEOPLE v. JOHNSON**
BY THE COURT:
Appellant's petition for rehearing is denied.
BLEASE, Acting P.J.

February 25, 2005

- C046751 THE PEOPLE v. MARTINEZ (Not for Publication)**
The judgment is affirmed.
Robie, J.
We Concur: Sims, Acting P.J.
Hull, J.

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February 25, 2005, continued

- C046776 THE PEOPLE v. WATSON (Not for Publication)**
The judgment (order committing defendant to the Department of Mental Health as an SVP) is affirmed.
ROBIE, J.
We Concur: Raye, Acting P.J.
Cantil-Sakauye, J.
- C047002 THE PEOPLE v. MACIAS (Not for Publication)**
The judgment is affirmed.
SIMS, J.
We Concur: Scotland, P.J.
Cantil-Sakauye, J.
- C046317 WYCKOFF et al. v. NUGENT et al.**
BY THE COURT:
Appellants' petition for rehearing is denied.
SCOTLAND, P.J.